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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,762	02/27/2001	Hermann Winner	R 34231	6339

7590                    03/21/2003

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[REDACTED] EXAMINER

HO, HA DINH

ART UNIT	PAPER NUMBER
3681	

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/763,762	WINNER ET AL.
	Examiner Ha D. Ho	Art Unit 3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-11, 13 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/03 has been entered.
2. This Office Action is responsive to Applicant's Amendment filed on 3/17/03. Claims 10, 13 and 14 have been amended accordingly. Claims 9-11, 13 and 14 are currently pending.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9-11, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bota (US 5,052,531).

Regarding claim 13, Bota'531 discloses an arrangement that would perform a method for ensuring standstill of a vehicle in combination with a road speed controller (i.e., the brake pedal 82) of the vehicle, comprising the steps of:

braking the vehicle to standstill with said road speed controller (82) (i.e., when the driver stops the vehicle by depressing the brake pedal 82),

building up a braking force in the manner of a parking brake function when said standstill of the vehicle is detected (i.e., the brake oil pressure is generated by the master cylinder 83 when the brake switch is ON and where the vehicle stops, see col. 5, lines 14-52),

interrupting force flow in a drive train by controlling an automatic transmission into a neutral position (see col. 1, lines 50-52),

detecting a start-drive command of the driver when an operator-controlled element is actuated (i.e., when the driver operates the shift lever from neutral to drive range. See col. 6, lines 51-62), and

disengaging the parking brake function and controlling automatic transmission out of said neutral position only when said start-drive command is detected (i.e., when the driver operates the shift lever from neutral to drive range and releases the brake pedal 82, the control valve 75 is controlled to OFF and the forward clutch 15 is controlled to start the first gear. See col. 6, lines 51-62).

Regarding claim 14, the arrangement comprising a control unit (90) that would executes the set forth steps of the above method.

Regarding claim 9, the vehicle includes a supply voltage unit (i.e., brake switch 91) and electrical systems (i.e., electrical wire circuit). Bota'531 discloses that the brake is maintained even if a driver releases the brake pedal (see abstract), i.e., the voltage of the electrical systems (pedal 82 and brake switch 91) is switched off (brake pedal releases).

Regarding claim 10, Bota'531 discloses that the brake is on until the starting gear position (corresponding to claimed star-drive command) is formed.

Regarding claim 11, Bota'531 shows controlling the gear position to neutral (see col. 5, lines 45-48, and step S5 in Fig. 4) after detection of standstill (i.e., car velocity = 0, and brake switch on, see step S2 and S4 in Fig. 4).

#### ***Response to Arguments***

5. Applicant's arguments filed on 3/17/03 have been fully considered but they are not persuasive. Applicant states that "*In Bota, simply the release of the brake pedal leads to a movement out of the transmission position which ensures standstill*" (page 6, the last three lines). Examiner disagrees because Bota's Fig. 5 shows that when the brake is released (i.e., brake switch is OFF) in combination of the shift lever is shifted to DRIVE (i.e., the start-drive command is detected), the transmission is controlled out of the neutral position (i.e., the forward clutch is clutched). Therefore, the action of releasing of the brake pedal does not lead the transmission moving out of the neutral position until the shift lever is shifted to DRIVE position. In addition, Bota clearly states that "*even if a driver releases a brake pedal, action of the brake is maintained compulsorily until the starting gear position is formed by connection of frictional elements in the automatic transmission*" (see Abstract).

#### ***Communication***

6. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by

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facsimile transmission should include a Certificate of Transmission (M.P.E.P.. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Ho whose telephone number is (703) 305-0738. The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 5:00 P.M. Eastern Standard Time. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Mr. Charles Marmor, can be reached at (703) 308-0830. Any inquiry of a general nature or relating to the status of this application or proceeding should directed to the Group receptionist whose telephone number is (703) 308-2168.

*Ha Ho 03/20/03*

Ha Ho  
Patent Examiner  
Art Unit 3681